

KENNETH W BROWN, AICP
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BROWNORTIZ.LAW

May 24, 2019

San Antonio City Council
C/O – City Clerk
City of San Antonio
114 W. Commerce
San Antonio, Texas 78205

Via Hand Delivery



RE: Appeal of Board of Adjustment Decision for Variance Request to Section 28-45 of the San Antonio Code of Ordinances (the “Code”) for Property Located at 5075 Rigsby Ave. in San Antonio, Texas, (the “Subject Property”), Case: BOA-19-10300049; Our File No. 10023.001

To the Members of the City Council:

On behalf of the owner of the Subject Property, Whataburger Real Estate, we respectfully request your consideration of a variance to the City’s “Sign Code” (Ch. 28 of the City Code) for an existing pylon sign. On May 20, 2019, we presented a request for a variance to Sec. 28-45 of the Sign Code to the Board of Adjustment to allow an existing Whataburger sign to remain at its current height. A motion to approve was made, however, ultimately failed and the variance was denied (*see attached Exhibit “A”* for application materials and letter of denial).

The current Sign Code will only allow signs fronting an “expressway” to be a maximum of sixty feet (60’) above ground level. The existing sign is eighty-eight feet (88’) tall. We are only requesting to replace a portion of the sign, not the entire sign, but that maintenance will trigger us to comply with the lower sign height. In short, we feel we are being “punished” for trying to maintain our current signage. The sign is only 17 years old, with many years left on its life cycle. The way the Sign Code is employed in this case seems to discourage routine maintenance for certain signs that have not completed their life cycle.

Furthermore, the current height of the sign is appropriate, given the location near an expressway and near other, tall signs advertising food. The restaurant industry is a competitive one, and the loss of height will cause a loss in business for Whataburger. It is important to note, as well, that the sign height has had no negative effects on the properties surrounding it for the 17 years that it has existed. We respectfully request that the City Council approve our appeal and allow the existing sign to be kept at its current height (88’) after it is repaired.

Please do not hesitate to contact our office should you have any questions or need any additional information regarding the above.

Very truly yours,

BROWN & ORTIZ, P.C.

BY:



James McKnight

Enclosures: As stated

City of San Antonio Receipt



Payer Brown and Ortiz PC Check # 8703 112 E. Pecan, Ste. 1360 SAN ANTONIO TX 78205	Facility Location Brown and Ortiz PC Check # 8703 112 E. Pecan, Ste. 1360 SAN ANTONIO TX 78205
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Sale Date	Order Number	Customer Number	Responsible Department
05/29/2019	791505	1	City Clerk

Description	Quantity	Rate	Amount
Appeal: Case: BOA-19-10300049	1.00	300.00	300.00

Service Date	Ordinance No.	Reference Document
05/29/2019		

Subtotal	300.00
Tax	0.00
Total Amount	300.00

* An amount with a negative sign is a credit or credit balance

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City of San Antonio

* Financial Services - Revenue Collections - P.O. Box 839975 - San Antonio, TX 78283-3975

